

76



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,330	12/24/2001	Kenzo Nishi	10873.869US01	3231
23552	7590	04/04/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			COBANOGU, DILEK B	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,330

Applicant(s)

NISHI ET AL.

Examiner

Dilek B. Cobanoglu

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/6/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-30 have been examined.

Claim Objections

2. Claim 27 is objected to because of the following informalities: Claim 27 is depending on another depending claim 22. Examiner believes that the Applicant meant claim 27 is dependable on method claim 23. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being unpatentable by Dyer et al. (U.S. Patent No. 4,828,257).

A. As per claim 1, Dyer et al. discloses a healthcare system comprising:

- i. a healthcare apparatus for obtaining health-related information of a user; and a server (Dyer et al.; col. 5, lines 49-59),
- ii. wherein the healthcare apparatus transmits the obtained health-related information to the server (Dyer et al.; col. 5, lines 49-59, col. 6, lines 24-30 and Fig. 1),
- iii. the server creates exercise menu information to be a target for the user to do exercise and advice information for healthcare of the user, and

transmits the created exercise menu information and advice information to the healthcare apparatus (Dyer et al.; col. 3, line 57 to col. 4, line 3 and col. 6, lines 54-68), and

iv. the advice information is created based on the exercise menu information and the received health-related information (Dyer et al.; col. 3, lines 57-67).

B. As per claim 2, Dyer et al. discloses a healthcare system according to claim 1, wherein the healthcare apparatus transmits the health-related information at an every previously set time or at an every predetermined time (Dyer et al.; col. 4, lines 18-22).

C. As per claim 3, Dyer et al. discloses a healthcare system according to claim 1, wherein the healthcare apparatus obtains the health-related information during exercise of the user, and the healthcare apparatus transmits the health-related information every time obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

D. As per claim 4, Dyer et al. discloses a healthcare system according to claim 1, wherein the health-related information contains at least one selected from the group consisting of a heart rate of a user and the number of steps thereof (Dyer et al.; col. 4, lines 18-22).

E. As per claim 5, Dyer et al. discloses a healthcare system according to claim 1, wherein the exercise menu information contains at least one selected from the group consisting of a target heart rate, a target number of steps, a target walking

distance, a target duration, and an exercise program imposing target values (Dyer et al.; col. 4, lines 22-35).

F. As per claim 6, Dyer et al. discloses a healthcare system according to claim 1, wherein the healthcare apparatus receives an input of user-related information, and transmits the user-related information to the server, and the server creates the exercise menu information based on the user-related information (Dyer et al.; col. 3, line 57 to col. 4, line 3).

G. As per claim 7, Dyer et al. discloses a healthcare system according to claim 6, wherein the user-related information contains at least one selected from the group consisting of a purpose of exercise of the user and personal information thereof (Dyer et al.; col. 3, line 57 to col. 4, line 3).

H. As per claim 8, Dyer et al. discloses a healthcare system according to claim 1, wherein the server creates advice information based on the user-related information and the health-related information (Dyer et al.; col. 3, lines 65-67).

I. As per claim 9, Dyer et al. discloses a healthcare apparatus for obtaining health-related information of a user and managing the health of the user, comprising:

- i. a receiving part for receiving information from an external apparatus; a health-related information obtaining part for obtaining the health-related information of the user; a transmitting part for transmitting the obtained health-related information to the external apparatus (Dyer et

al.; col. 4, lines 18-35); and a display part (Dyer et al.; col. 8, lines 53-59 and Fig. 4),

ii. wherein the receiving part receives exercise menu information to be a target for the user to do exercise, and advice information for healthcare of the user created by the external apparatus based on the exercise menu information and the transmitted health-related information (Dyer et al.; col. 4, lines 18-35), and

iii. the display part displays at least the exercise menu information and the advice information (Dyer et al.; col. 8, lines 53-59 and Fig. 4).

J. As per claim 10, Dyer et al. discloses a healthcare apparatus according to claim 9, wherein the transmitting part transmits the health-related information at an every previously set time or at an every predetermined time (Dyer et al.; col. 4, lines 18-22).

K. As per claim 11, Dyer et al. discloses a healthcare apparatus according to claim 9, wherein the health-related information obtaining part obtains the health-related information during exercise of the user, and the transmitting part transmits the health-related information every time obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

L. As per claim 12, Dyer et al. discloses a healthcare apparatus according to claim 9, wherein the health-related information contains at least one selected from the group consisting of a heart rate of a user and the number of steps thereof (Dyer et al.; col. 4, lines 18-22).

M. As per claim 13, Dyer et al. discloses a healthcare apparatus according to claim 9, wherein the exercise menu information contains at least one selected from the group consisting of a target heart rate, a target number of steps, a target walking distance, a target duration, and an exercise program imposing target values (Dyer et al.; col. 4, lines 22-35).

N. As per claim 14, Dyer et al. discloses a healthcare apparatus according to claim 9, comprising an input part for inputting user-related information, wherein the transmitting part transmits the user-related information to the external apparatus, and the exercise menu information is created based on the user-related information (Dyer et al.; col. 3, line 57 to col. 4, line 3).

O. As per claim 15, Dyer et al. discloses a healthcare apparatus according to claim 14, wherein the user-related information contains at least one selected from the group consisting of a purpose of exercise of the user and personal information thereof (Dyer et al.; col. 3, line 57 to col. 4, line 3).

P. As per claim 16, Dyer et al. discloses a healthcare apparatus according to claim 14, wherein the advice information is created based on the user-related information and the health-related information (Dyer et al.; col. 3, lines 65-67).

Q. As per claim 17, Dyer et al. discloses a server for receiving health-related information of a user to create advice information, comprising:

- i. a receiving part for receiving the health-related information of the user obtained at an external terminal apparatus; an exercise menu information creating part for creating exercise menu information to be a

Art Unit: 3626

target for the user to do exercise; an advice information creating part for creating advice information for healthcare of the user; and a transmitting part for transmitting the exercise menu information and the advice information to the terminal apparatus (Dyer et al.; col. 3, line 57 to col. 4, line 3),

ii. wherein the advice information creating part creates the advice information based on the received health-related information and exercise menu information (Dyer et al.; col. 3, lines 57-67).

R. As per claim 18, Dyer et al. discloses a server according to claim 17, wherein the health-related information contains at least one selected from the group consisting of a heart rate of a user or the number of steps thereof (Dyer et al.; col. 4, lines 18-22).

S. As per claim 19, Dyer et al. discloses a server according to claim 17, wherein the exercise menu information contains at least one selected from the group consisting of a target heart rate, a target number of steps, a target walking distance, a target duration, and an exercise program imposing target values (Dyer et al.; col. 4, lines 22-35).

T. As per claim 20, Dyer et al. discloses a server according to claim 17, wherein the exercise menu information creating part creates the exercise menu information based on user-related information transmitted from the external terminal apparatus (Dyer et al.; col. 3, line 57 to col. 4, line 3).

U. As per claim 21, Dyer et al. discloses a server according to claim 20, wherein the user-related information contains at least one selected from the group consisting of a purpose of exercise of the user and personal information thereof (Dyer et al.; col. 3, line 57 to col. 4, line 3).

V. As per claim 22, Dyer et al. discloses a server according to claim 20, wherein the advice information creating part creates advice information based on the user-related information and the health-related information (Dyer et al.; col. 3, lines 65-67).

W. As per claim 23, Dyer et al. discloses a healthcare method using a server and a healthcare apparatus connected to the server, comprising the steps of:

(a) transmitting exercise menu information to be a target for a user to do exercise from the server to the healthcare apparatus (Dyer et al.; col. 3, lines 11-21 and lines 33-56);

(b) obtaining health-related information of a user by the healthcare apparatus (Dyer et al.; col. 4, lines 18-22);

(c) transmitting the obtained health-related information from the healthcare apparatus to the server (Dyer et al.; col. 3, line 57 to col. 4, line 1);

(d) creating advice information based on the health-related information and the exercise menu information by the server and transmitting the advice information to the healthcare apparatus (Dyer et al.; col. 4, lines 9-17); and

(e) providing a user with the received advice information by the healthcare apparatus (Dyer et al.; col. 4, lines 9-17 and lines 22-35).

X. As per claim 24, Dyer et al. discloses a healthcare method according to claim 23, wherein transmission of the health-related information by the healthcare apparatus is conducted at an every previously set time or at an every predetermined time (Dyer et al.; col. 4, lines 18-22).

Y. As per claim 25, Dyer et al. discloses a healthcare method according to claim 23, wherein the healthcare apparatus obtains the health-related information during exercise of the user, and the healthcare apparatus transmits the health-related information every time obtaining the health-related information (Dyer et al.; col. 4, lines 18-22).

Z. As per claim 26, Dyer et al. discloses a healthcare method according to claim 23, wherein the health-related information contains at least one selected from the group consisting of a heart rate of a user and the number of steps thereof (Dyer et al.; col. 4, lines 18-22).

AA. As per claim 27, Dyer et al. discloses A healthcare method according to claim 23, wherein the exercise menu information contains at least one selected from the group consisting of a target heart rate, a target number of steps, a target walking distance, a target duration, and an exercise program imposing target values (Dyer et al.; col. 4, lines 22-35).

BB. As per claim 28, Dyer et al. discloses a healthcare method according to claim 23, wherein the healthcare apparatus receives an input of user-related

information prior to the step (a), and the server creates the exercise menu information based on the user-related information in the step (a) (Dyer et al.; col. 3, line 57 to col. 4, line 3).

CC. As per claim 29, Dyer et al. discloses a healthcare method according to claim 28, wherein the user-related information contains at least one selected from the group consisting of a purpose of exercise of the user and personal information thereof (Dyer et al.; col. 3, line 57 to col. 4, line 3).

DD. As per claim 30, Dyer et al. discloses a healthcare method according to claim 28, wherein the server creates advice information based on the user-related information and the health-related information in the step (d) (Dyer et al.; col. 3, lines 65-67).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used art teach "Method of determining an optimum workload corresponding to user's target heart rate and exercise device therefor" 5,853,351 A, "Cardiovascular conditioning and therapeutic system" 4,860,763 A, "Biomedical response exercise equipment which avoids interference effects" 6,208,889 B1, "Training device for rehabilitation" 4,790,528 A, "Exercise system and method for managing physiological intensity of exercise" 5,318,487 A, "Physical exercise video system" 5,888,172 A, "Real time simulation using position sensing" 6,152,856 A, "Exercise equipment information, communication and display system" 5,213,555 A, "Method and apparatus for health and disease management combining

Art Unit: 3626


patient data monitoring with wireless internet connectivity" 2001/0047125, "Flexion extension exerciser" 2001/0027150, "Physical exercise video system" 5,591,104 A, "Exercise sit-up machine and method" 5,098,089 A.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBC
DBC
Art Unit 3626
03/23/2006


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER